IN THE DRAWINGS

Applicant acknowledges that the Examiner has accepted the drawings filed on May 9, 2001.

REMARKS

The present patent application is currently in the appeal process. Applicants had filed an Appeal Brief on September 10, 2004, subsequent to filing a Notice of Appeal, appealing from the Final Office Action dated March 2, 2004. Applicants respectfully assert that the Examiner has not provided any indications of re-opening prosecution. Therefore, Applicants believe that the present patent application is in appeal and that the Appeal Brief is being processed by the Office.

Regarding Examiner's rejections of the claims under 35 U.S.C. § 102 and 35 U.S.C. § 103 in the present Office Action (dated December 7, 2004), to the extent that they are similar to the previous rejections, Applicants respectfully direct the Examiner to the arguments provided in the Appeal Brief, which is hereby incorporated. Regarding the rejections under 35 U.S.C. § 112, Applicants will address Examiner's rejection and have provided arguments traversing these rejections.

Since there are no indications regarding re-opening prosecution of the present patent application, Applicants respectfully assert that the Office Action mailed on December 7, 2004, is improper. Applicants filed an Appeal Brief on September 10, 2004 for the present patent application. According to the PAIR System, the Appeal Brief was received by the Patent Office on September 14, 2004. Additionally, the PAIR system indicates that the Appeal Brief was forwarded to the Examiner on October 6, 2004. Subsequently, the Examiner filed an Office Action containing similar rejections (with the exception to the 112 rejections) that were addressed in the Appeal Brief on December 7, 2004. Applicants respectfully assert that the Office Action Dated December 7, 2004, is in error, and therefore is improper. Applicants respectfully assert that the Office Action dated December 7, 2004 should be held in abeyance.

The issues that were addressed in the Office Action dated December 7, 2004 essentially assert rejections that were addressed in the Appeal Brief. However, Examiner added two additional rejections under 35 U.S.C. §112. Applicants respectfully traverse all of the rejections.

The Examiner rejected claims 1, 3-11, 13-21, 23-30, 41, and 43-61 under 35 U.S.C. § 112, first paragraph. The Examiner stated that the term "deposition rate sensor" is not supported. Applicants respectfully assert that the term "deposition rate sensor data" is indeed supported by the Specification, which describes sensor data relating to the deposition rate as to one embodiment of the present invention. *See*, for example page 9, lines 14-22. Therefore, the Specification clearly supports the term "deposition rate sensor data." Therefore, Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 112, first paragraph.

The Examiner rejected claims 1, 3-11, 13-21, 23-30, 41, and 43-61 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner suggested that "...the limitation 'modeling said dependence of the deposition rate (on at least one of deposition plasma power and deposition time) being based upon a target life of the sputter target' is unclear in the context of the claim." *See*, page 3 of the Office Action Dated December 7, 2004. Applicants respectfully disagree with Examiner's assertion. Modeling the dependence of the deposition being based upon the target life of the sputter target is self-explanatory and is explained in the Specification. For example, as to one embodiment of the present invention, the Specification discloses that "[t]he dependence of the metal deposition rate on the sputter target life may be determined by modeling, as described more fully below." *See*, for example Page 7, line 24-page 2, line 2. These concepts are described adequately in the Specification. Therefore, Applicants

assert that one skilled in the art would not find the claimed subject matter to be indefinite. Therefore, Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 112, second paragraph.

The Examiner rejected claims 1, 5, 6, 9-11, 15, 16, 19-21, 25, 26, 29-32, 35, 36, 39-41, 45, 46, 49-52, 55, 56, 59, and 60 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,166,783 (***Turner***). The Examiner also rejected claims 3, 4, 7, 8, 13, 14, 17, 18, 23, 24, 27, 28, 33, 34, 37, 38, 43, 44, 47, 48, 53, 54, 57, 58, and 61 under 35 U.S.C. § 103(a) as being unpatentable over ***Turner*** in view of U.S. Patent No. 6,217,720 (***Sullivan***). The Examiner also rejected claims 9, 10, 19, 20, 29, 30, 39, 40, 49, 50, 59, and 60 under 35 U.S.C. § 103(a) as being unpatentable over ***Turner*** as applied to claims 1, 2, 11, 12, 21, 22, 31, 32, 41, 42, 51, and 52. Applicants respectfully traverse this rejection. These are rejections that have been already addressed by the Applicants in the Appeal Brief, which was filed on September 10, 2004. Applicants hereby re-urge the Appeal Brief.

The rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103 have been properly addressed in the Appeal Brief, wherein the arguments in the Appeal Brief relating to the rejections listed above are hereby incorporated. Applicants respectfully assert that the Office Action dated December 7, 2004 is in error and should be withdrawn. Further, Applicants respectfully assert that the Office Action dated December 7, 2004 be held in abeyance. Applicants re-urge the arguments provided in the Appeal Brief. Since there are no indications regarding re-opening prosecution, Applicants believe that the Appeal process is still in effect and that the Appeal Brief is being processed by the Office.

The Examiner is invited to contact the undersigned attorney at the Houston, Texas, telephone number (713) 934-4069 to discuss this matter further.

Please date stamp and return the enclosed postcard to evidence receipt of this document.

Respectfully submitted,

WILLIAMS, MORGAN & AMERSON, P.C.
CUSTOMER NO. 23720

Date: March 7, 2005

By: _____

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